

## CASES OF INTEREST

**Election Expenses.**—In an action brought by an elector under the Purity of Election Act, contesting the right of the mayor-elect to his office, the supreme court of California, in the case entitled *Bradley vs. Clarke*, 65 Pacific Reporter, 386, has decided that the provision of the act which requires a candidate for public office to file a statement, under oath, of his expenses as a qualification to taking office, is void, as a violation of the constitution prescribing the oath which shall be taken, and prohibiting the requirement of any other oath. This decision does not defeat the object of the action, however, for the court overrules the decision of the superior court, which found in favor of the mayor-elect, and remanded the cause for a new trial.

**Right to Self-government by Municipalities.**—The supreme court of Pennsylvania has handed down an interesting decision in the case entitled *Commonwealth vs. Mohr*, 49 Atlantic Reporter, 351, construing an act for the government of cities of the second class, commonly known as the "Ripper Bill," by which the municipal officers of the cities of Pittsburgh, Allegheny and Scranton are deprived of their offices, which are abolished, and the city government intrusted in the hands of an official appointed by the governor, and known as the "Recorder." The majority of the court held that this act does not violate article 2, section 7, of the constitution, prohibiting special legislation as to municipalities. The majority held that municipal corporations are agents of the state, invested with certain governmental functions, for reasons of convenience and public policy. They are created, and the extent of their powers determined by the legislature, and hence are subject to its will. There is a vigorous dissenting opinion by Dean, Jr., with whom concur the chief justice and Justice McTear.

**Liability of Owner of Elevator for Injuries.**—The owner of a passenger elevator for the use of tenants and others in a building has been held by the supreme judicial court of Massachusetts, in the case of *Seiders vs. Bradley*, 60 Northeastern Reporter, 795, to be under no obligation to carry passengers, and not to be a common carrier of passengers within the meaning of the statutes relating to the liabilities of common carriers of passengers, and hence is not liable for the death of a passenger caused by the elevator not being in proper repair.

**Bridge Over a Street.**—A bridge over a street, connecting two buildings on the opposite sides thereof, although built so far above the street as not to interfere with traffic, becomes a nuisance as to adjacent property whose light it obstructs, in the opinion of the court of appeals of Maryland in the case of *Townsend vs. Epsland*, 49 Atl. 629. The court further holds that the nuisance is a continuing one, so that plaintiff's remedy at law could only have been by a succession of suits for damages, not affording adequate redress, and that they are entitled to relief by injunction.

**Compulsory Vaccination.**—The right of the state or its agents to compel vaccination has lately been the subject of much comment, and it was recently judicially passed upon by the supreme court of Michigan in the case of *Matthews vs. Board of Education*, 85 Northwestern, 1068. The board passed a rule excluding from the schools children who had not been vaccinated. The Michigan law requires, under penalty of fine or imprisonment, or both, that parents shall send their children to school. The plaintiff was a Christian Scientist, and refused to have his children vaccinated. The majority of the court held that it was beyond the power of the board to make, in the absence of an epidemic of smallpox, a continuing rule excluding from the schools children who had not been vaccinated, and granted the petition for a writ of mandamus to compel the board to admit the children of plaintiffs.

**Contempt of Court.**—Those who argue in favor of the abridgement of the powers of judges in the matter of punishment for contempt will find support in the case of *ex parte Stricker*, 140 Federal, 145. Stricker was a Cincinnati lawyer, who also practiced in Covington, Ky. Arriving at the latter place to try a case in which he was retained, he found that the judge was absent in Chicago and had telegraphed the sheriff to adjourn all business until a future day. Pursuant to the provisions of a Kentucky statute, the attorney requested the clerk to hold an election for a special judge to try the case. The clerk refused. After the return of the regular judge the case proceeded to trial. In the midst of the trial the judge sent for the clerk and inquired who the Cincinnati attorney was who had requested the election of a special judge while he was absent in Chicago. The attorney stood up and replied in a respectful manner that he was the man. He was ordered to sit down, which he did, and the case proceeded until the noon recess, when the judge, without further proceedings, announced that Stricker was fined \$25 for contempt of court, and the sheriff would take said Stricker in custody until the fine was paid. The petitioner applied to the United States district court for a writ of habeas corpus. Judge Evans, in his opinion, says that a person who is primarily adjudged guilty of contempt without a hearing for an act not committed in the presence of the court, and who, in consequence thereof, is imprisoned for non-payment of the fine imposed, is deprived of his liberty without due process of law, in violation of the fourteenth amendment to the constitution of the United States.

**Gift from Husband and Wife.**—The gift of stock to a wife by her husband, made when he was free from debt, is held to be good, in the case of *First National Bank of Richmond v. Holland*, 39 Southeastern Reporter, 126, even though the dividends were collected by the husband, and no indorsement or transfer of the stock was made on the books of the corporation.

**Termination of Relationship of Carrier and Passenger.**—A passenger on a railway train has been held by the court of civil appeals of Texas, in the case of *Texas & Pacific Railroad Company v. Dick*, 62 S. W. 895, to remain such after alighting from the train and while in the depot premises of the company for a period of time reasonably necessary to enable him to leave the same, and is, therefore, entitled to the reasonable protection of the company's agents and servants from the assaults of third persons during such time.

**Custody of Insane Person.**—It has been held by the supreme court of Indiana in the case of *state v. Overman*, 60 Northeastern Reporter, 1017, that where the sheriff in Indiana had without warrant or authority secretly conveyed him into Ohio, and there left him by the roadside, the board of directors of the county infirmary of the county in which the insane person was released was not entitled to a writ of mandamus to compel the defendant to resolve the insane person back into his custody.

**Anti-scalper Law Unconstitutional.**—New York Laws of 1901, c. 639, prohibiting the sale of railroad tickets by "scalpers," has been held unconstitutional in the case of *people ex rel. Wells vs. Hagan*, 71 New York Supplement, 461. Judge Gildersleeve holds that the present law is substantially the same as the law of 1887, which was held unconstitutional by the court of appeals, and quotes from the opinion of the

latter court, as follows: "A law which prohibits the selling of tickets of passage on railway trains by any persons except common carriers and their authorized agents transcends the police power and violates the constitutional guarantees in so far as it undertakes to prohibit citizens from engaging in the business of brokerage in passage tickets."

**Attorney and Client.**—A client is not affected with notice of facts within the knowledge of his attorney, according to the supreme court of Tennessee in the case of *Neilson v. Weber*, 34 Southwestern Reporter, 20, when the facts were obtained by the attorney from outside sources, and not in the matter and course of his employment for such client.

**Train Dispatcher as Employee Running Train.**—A train dispatcher has been held in the case of *Rindard v. Omaha, K. C. & E. Ry. Co.*, 64 Southwestern Reporter, 124, to be an employee running a train, within the meaning of the statute providing that whenever a person shall die from an injury resulting from the negligence of any person in running any train the railroad shall be liable.

**Law As to Fellow Servants.**—The Indiana enactment known as the "employees' liability act," which regulates the liability of a railroad corporation for injuries to its employees, has recently been construed in the case of *the Indianapolis Union Railway company vs. Houlihan*, 60 Northeastern Reporter, 943. The court holds that the section making railroad corporations liable for injuries to their employees the same as to strangers, where the injury is caused by the negligence of locomotive engineers or trainmen, etc., whether the employee was acting in obedience to some superior at the time or on his own initiative, is not in conflict with the equality clause of the federal and state constitutions, as an unreasonable discrimination against railroad companies as well as the personal property and concludes as follows: "Our construction may seem harsh, but it is the plain and unmistakable meaning of the language used by the lawmakers, and we have nothing to do but give it the interpretation intended by that department of government."

**Civil Death.**—The disposition of property of persons sentenced to life imprisonment is considered by the supreme court of Kansas in the case of *Smith vs. Becker*, 64 Pacific Reporter, 70. The statute provides that "whenever any person shall be imprisoned under sentence for life, his estate, property and effects shall be administered and disposed of in all respects as if he were naturally dead." The majority of the court confine the application of this section to personal property because of the use of the word "estate." An able dissenting opinion by Green, J., with whom concur the chief justice and Pollock, J., sets forth what would appear to be the natural construction of the section. It points out that an administrator in Kansas has absolute control over the real estate as well as the personal property and concludes as follows: "Our construction may seem harsh, but it is the plain and unmistakable meaning of the language used by the lawmakers, and we have nothing to do but give it the interpretation intended by that department of government."

**Dower Rights of Divorced Wife.**—The New York supreme court, appellate division, second department, has held that a divorced wife is not barred by the statute of limitations from her right to dower in the lands of her husband and in New York where she was married in Massachusetts and removed to New York, and resided there with her husband for eleven years, and then returned to Massachusetts, and there obtained a divorce. The husband was served personally in New York, but did not appear in the action, and subsequently remarried in Pennsylvania, but continued to live in New York until his death. The court holds that the Massachusetts decree, not being binding on the husband, does not estop the wife from claiming dower. The case is entitled *Starbuck vs. Starbuck*, and will be found in 71 New York Supplement, 104. Goodrich, presiding judge, dissents on the ground that "he who seeks equity must do equity, and must come into court with clean hands." The plaintiff invoked the jurisdiction of the Massachusetts court by commencing an action for divorce. She cannot now in good conscience refuse to abide by its decree dissolving the marital bonds.

(Full reports of any case cited here may be obtained from the West Publishing company, St. Paul, Minn., for 25 cents.)

### A VICIOUS RASCAL.

Spanish Bandit Who is Wily and Bad.

(Birmingham (England) Press.)  
Verily truth is stranger than fiction, for it is doubtful if in the wildest romance a more daring and ingenious Dick Turpin has ever been portrayed than is the Spanish bandit Norel, whom the police have long been trying to capture, and who is now said to be once more in his old haunts in Algeria.

One day last June Norel, who was then in Algeria, quarreled with one of his countrymen, named Linnes, and promptly assassinated him. The police were quickly on his track, but he easily evaded them, and nothing was heard of him until Aug. 31, when he appeared at Marengo. Again the police came on him, and again he escaped, after severely wounding two of his opponents. Soon afterward he was seen at Cherchell and at Oran, and each time notice was sent to the authorities, as he is an outlaw on whose head a price has been set, but though they tried hard to capture him their efforts were fruitless.

He next appeared at Alicante, having gone there for the purpose of getting some money from his brother, whose home is in that town. When he told why he had come his brother refused to give him any money, whereupon the bandit beat him almost to death and then ransacked his house of all its valuables.

Norel has already assassinated seventeen persons, and has been condemned to death on three occasions. He escaped from prison some time ago in very clever fashion. First he murdered the sentinel who was on guard near his cell. Then he buried the dead man's face so that no one would recognize it, and finally he put his own clothes on his victim's body and dressed himself in the military uniform. When the body was found everyone felt sure that it was Norel's, and when the sentinel did not appear at the midday meal some of his companions remembered that they had seen a soldier very like him hurrying away from the prison an hour or two before, and they concluded that he had deserted. Yet this soldier was no other than Norel.

On another occasion the bandit, after being condemned to death in Spain, was placed, according to the usual custom, in the prison chapel during the morning before the execution, and when night came he expressed a desire to see a priest. His request was granted, and when the priest came Norel went with him into a dark corner of the chapel with the avowed object of making a confession.

As the priest, however, bent down to hear him, the assassin snatched from his hands the heavy crucifix, and raising it in the air, brought it down with such force on his skull that the unfortunate man was felled lifeless to the ground. The soldiers on guard heard the body fall, but they paid no attention to it, and when a man wearing the vestments of a priest came towards them from the gloom and, after blessing them, passed through the heavy gate of the prison, they never suspected that it was the notorious murderer, who had thus once more escaped the clutches of the law.

The police of Algiers are not lacking in alertness or zeal, yet in view of Norel's amazing record there are many who think that he will easily evade them, just as he has so many times evaded the police of Spain.

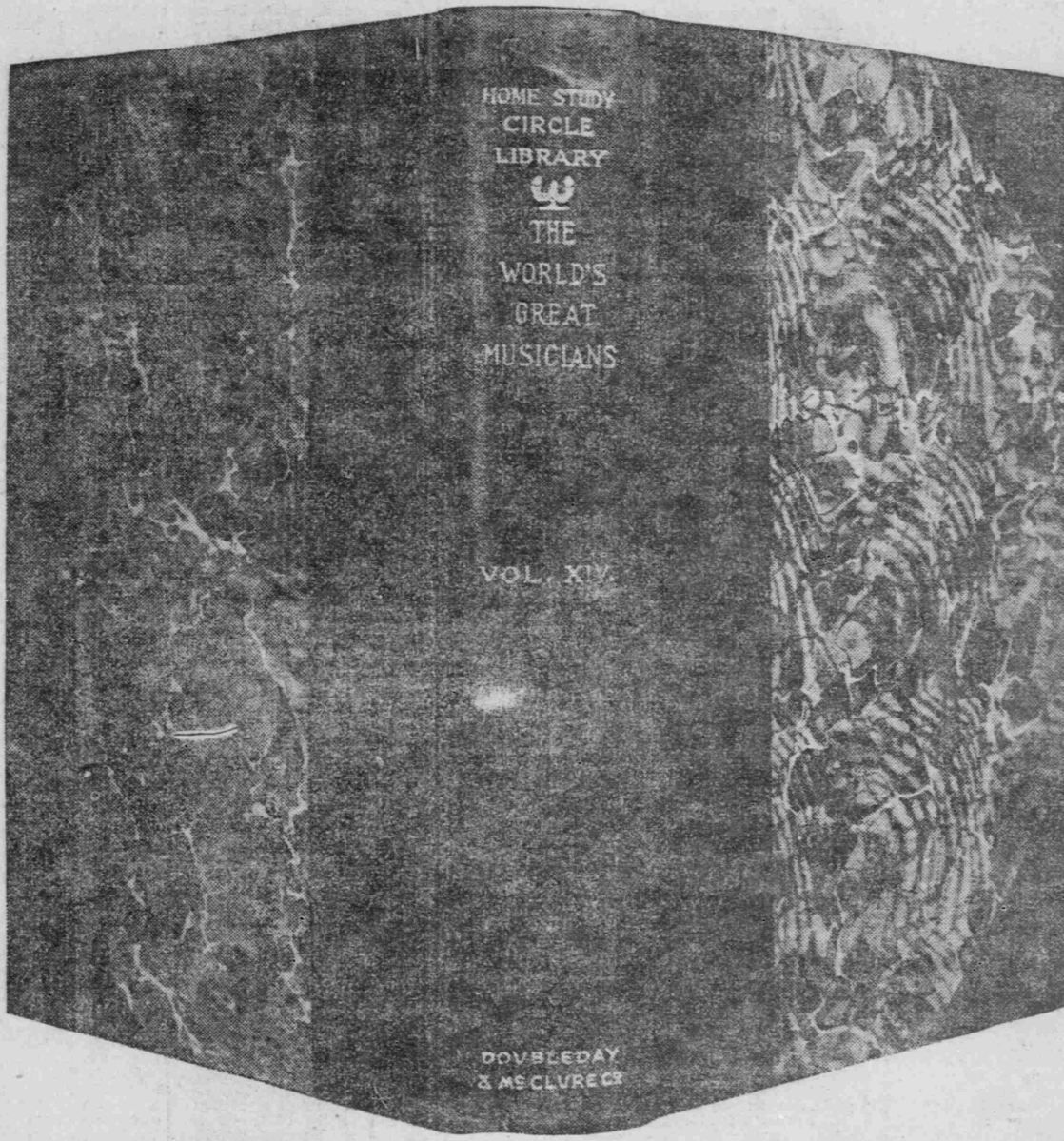
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